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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,832	03/17/2004	Terry D. Perkinson	10041.000100	7133
31894 7590 07/30/2008 OKAMOTO & BENEDICTO, LLP P.O. BOX 641330 SAN JOSE, CA 95164				
EXAMINER MCNALLY, MICHAEL S				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/804,832

**Applicant(s)**

PERKINSON, TERRY D.

**Examiner**

Michael S. McNally

**Art Unit**

2136

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5,7-9 and 11-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-9 and 11-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **Detailed Action**

#### **Status of Claims:**

Claims 1-28 are pending in this Office Action.

Claims 1, 7, 14-20 and 22-26 are amended.

Claims 6 and 10 are cancelled.

The objection to the specification is withdrawn based on Applicant's amendment.

The objections to claims 15 and 17 are withdrawn based on Applicant's amendment.

The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. The Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

#### **Response to Arguments**

Applicant's arguments filed in the amendment filed 14 May 2008, have been fully considered but are moot in view of new grounds of rejection. The reasons set forth below.

#### **Applicant's invention as claimed:**

### ***Claim Objections***

Claim 12 is objected to because of the following informalities: There are two separate claims that are numbered 12. The text of the second claim 12 corresponds with the text of the original claim 13 and said second claim'12 will be treated as if it were numbered claim 13. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-5, 7-9, 12-17 and 26-28 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2005/0034159 by *Ophir et al.***

As to **claim 1**, *Ophir* discloses an apparatus for data transfer comprising:  
a plurality of nodes that are configured to be communicatively interconnected by both a first network which is a wireless home network and a second network which is a wired home network (*Ophir*: Fig 1; Page 3, Sec 32-37; Appliances in a home are connected to both a wireless 802.11 network and the home coaxial cable network),

wherein secured data is transferred between at least two nodes of said plurality of nodes on said first network only if said at least two nodes also exist on said second network (*Ophir*: Page 5, Sec 50; Protected cable video transmitted over 802.11 network, DOCSIS packets transmitted over coax lines).

As to **claim 2**, *Ophir* further discloses wherein unsecured data is freely transferred between said at least two nodes on said first network (*Ophir*: Page 5, Sec 47).

As to **claim 3**, *Ophir* further discloses wherein unsecured data is freely transferred between said at least two nodes on said second network (*Ophir*: Page 5, Sec 48).

As to **claim 4**, *Ophir* further discloses wherein said at least two nodes exist on said second network for the entire period of said data transfer across said first network (*Ophir*: Page 5, Sec 50).

As to **claim 5**, *Ophir* further discloses further including security negotiation for use of said first network wherein said security negotiation data is transferred between said at least two nodes only over said second network (*Ophir*: Page 5, Sec 50).

As to **claim 7**, *Ophir* further discloses wherein said second network is a home electrical wiring network (*Ophir*: Page 1, Sec 7).

As to **claim 8**, *Ophir* further discloses further including at least one interface module for communicating with data resources (*Ophir*: 15a – Fig 1; Page 3, Sec 34; Home splitter).

As to **claim 9**, *Ophir* further discloses wherein said security negotiation further includes at least one authentication key (*Ophir*: Page 3, Sec 39: DOCSIS uses an authentication key as part of its protocols, thus, in the use of DOCSIS, an authentication key is inherent).

As to **claim 13**, *Ophir* further discloses wherein said authentication key is established by one of the group consisting of the manufacturer, the service provider, the end user and a predetermined algorithm (*Ophir*: Page 3, Sec 39).

As to **claim 14**, *Ophir* further discloses wherein said wired home network has predetermined physical boundaries (*Ophir*: Fig 1, 4; Cable network for a home is bounded by the four walls of the home).

As to **claim 15**, *Ophir* further discloses wherein said wired home network is selected from the group comprising facility electrical wiring network, a home PNA telephone wiring network, a standard wired Ethernet network, and a coaxial cable network (*Ophir*: Page 3, Sec 34, Coaxial cable CX).

As to **claim 16**, *Ophir* further discloses wherein said wired home network further includes predetermined physical access points (*Ophir*: Page 1, Sec 7).

As to **claim 17**, *Ophir* further discloses wherein said physical access points include at least one selected from the group consisting of electrical outlets, phone jacks, and Ethernet jacks (*Ophir*: Page 1, Sec 7).

As to **claim 26**, *Ophir* discloses an apparatus for data transfer comprising:  
at least one interface module for communicating with data resources (*Ophir*: 27 – Fig 2A; Page 3, Sec 38 and Page 4, Sec 45; Splitter);

a home wired network interface module for sending and receiving control packets and security packets to and from a wired home network(*Ophir*: 27 – Fig 2A; Page 3, Sec 38 and Page 4, Sec 45; Splitter);

a wireless network interface module for sending and receiving data packets to and from a wireless home network (*Ophir*: A – Fig 2A; Page 3, Sec 38 and Page 4, Sec 45 ; Antenna); and

a processing unit for encapsulating data packets, de-encapsulating said data packets, processing said security packets, processing said control packets, detecting a second processing unit on both said home wired network and said wireless network and delivering said data packets on said wireless network interface module to said second processing unit (*Ophir*: 20 – Fig 2A; Page 3, Sec 38 and Page 4, Sec 45; STB/DVD/PVR processor).

As to **claim 27**, *Ophir* further discloses wherein said data resources are selected from the group comprising internet, cable, telephone, digital versatile disc, personal video recorder, personal computer and video camera (*Ophir*: Page 1, Sec 19).

As to **claim 28**, *Ophir* further discloses wherein said apparatus is integrated within home entertainment and computing equipment (*Ophir*: Fig 2a, Page 4, Sec 45).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2005/0034159 by *Ophir et al.* in view of U.S. Patent No. 5,467,398 to *Pierce et al.***

As to **claim 11**, *Ophir* discloses all recited elements of claim 9 from which claim 11 depends.

*Ophir* does not expressly disclose wherein said authentication key is periodically changed.

*Pierce* discloses wherein said authentication key is periodically changed (*Pierce*: Fig 2-3; Col 4 -5, Lines 55-49).

*Ophir* and *Pierce* are analogous art because they are from the common area of network communications.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to periodically change an authentication key. The rationale would have been to reduce the potential to have the key cloned (*Pierce*: Col 5, Lines 46-49).

As to **claim 12**, the modified *Ophir/Pierce* reference further discloses wherein said authentication key is randomly changed (*Pierce*: Fig 2-3; Col 4 -5, Lines 55-49).

**Claims 18-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0253979 to Burr. in view of U.S. Patent Application Publication No. 2005/0034159 by Ophir et al.**

As to **claim 18**, *Burr* discloses A method for data transfer between at least two nodes of a plurality of nodes over a first network using a second network for authentication (*Burr*: Fig 1; Page 3, Sec 27; Network 190 used to authenticate data sent over data 180), the method comprising:

authenticating a relationship between said at least two nodes on said second network (*Burr*: 320 - Fig 3; Page 4, Sec 34);

transferring data between said at least two nodes on said first network (*Burr*: 360 – Fig 3; Page 4, Sec 37);

re-authenticating a relationship between at least two nodes on said second network (*Burr*: 340 – Fig 3; Page 4, Sec 37); and

de-authenticating a relationship between at least two nodes (*Burr*: 370 – Fig 3; Page 4, Sec 39).

*Burr* does not expressly disclose data transfer between at least two nodes of a plurality of nodes within a home.

*Ophir* discloses data transfer between at least two nodes of a plurality of nodes within a home (*Ophir*: Fig 1; Page 3, Sec 32-37).

*Burr* and *Ophir* are analogous art because they are from common area of network communications.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to transfer data within two or nodes within a home. The rationale would have been to share content among in-home appliances (*Ophir*: Page 5, Sec 48).

As to **claim 19**, the modified *Burr/Ophir* reference further discloses wherein said step of authenticating comprises determining whether said at least two nodes within the home (*Ophir*: Fig 1; Page 3, Sec 32-37) exist on both said first network and said second network (*Burr*: Page 3, Sec 27).

As to **claim 20**, the modified *Burr/Ophir* reference further discloses wherein said step of authenticating said relationship between at least two nodes of said plurality of nodes is repeated periodically on said second network throughout the duration of said data transfer (*Burr*: Page 4, Sec 36).

As to **claim 21**, the modified *Burr/Ophir* reference further discloses wherein said step of de-authenticating said relationship between at least two nodes is conducted on said second network (*Burr*: 370 – Fig 3; Page 4, Sec 39).

As to **claim 22**, the modified *Burr/Ophir* reference further discloses wherein said first network is a wireless home network and said second network is a wired home network (*Ophir*: Fig 1; Page 3, Sec 32-37; Appliances in a home are connected to both a wireless 802.11 network and the home coaxial cable network).

As to **claim 19**, the modified *Burr/Ophir* reference discloses an apparatus for data transfer between at least two nodes of a plurality of nodes within a home (*Ophir*:

Fig 1; Page 3, Sec 32-37) over a first network using a second network for authentication (*Burr*: Fig 1; Page 3, Sec 27; Network 190 used to authenticate data sent over data 180), the apparatus comprising:

means for authenticating a relationship between said at least two nodes within the home on said second network (*Burr*: 320 - Fig 3; Page 4, Sec 34);

means for transferring data between said at least two nodes within the home on said first network (*Burr*: 360 - Fig 3; Page 4, Sec 37);

means for re-authenticating a relationship between said at least two nodes within the home on said second network (*Burr*: 340 - Fig 3; Page 4, Sec 37); and

means for de-authenticating a relationship between said at least two nodes within the home on said second network (*Burr*: 370 - Fig 3; Page 4, Sec 39).

As to **claim 24**, the modified *Burr/Ophir* reference further discloses wherein said step of authenticating comprises determining whether said at least two nodes exist on both said first network and said second network (*Burr*: Page 3, Sec 27).

As to **claim 25**, the modified *Burr/Ophir* reference further discloses wherein said first network is a wireless home network and said second network is a wired home network (*Ophir*: Fig 1; Page 3, Sec 32-37; Appliances in a home are connected to both a wireless 802.11 network and the home coaxial cable network).

#### **REMARKS**

:

Applicant has presented amendments the claims. These amendments have necessitated new grounds of rejection. Furthermore, these new grounds of rejection

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render Applicant's presented arguments as moot, as they refer to art no longer cited against the claims.

### ***Conclusion***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael S. McNally whose telephone number is (571)270-1599. The examiner can normally be reached on Monday through Friday 9:00 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Moazzami can be reached on (571)272-4195. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSM

28 July 2008

/Nasser G Moazzami/  
Supervisory Patent Examiner, Art Unit 2136